

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

HENRY MCCLUSKY,

Plaintiff,

v.

CENTURY BANK, FSB, n/k/a/,

Defendant.

Case No. 2:12-cv-706

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Elizabeth P. Deavers

ORDER

This matter is before the Court on Defendant's Motion for Approval of Supersedeas Bond and for Stay of Execution on Judgment Pending Appeal. (ECF No. 35.) For the reasons that follow, the Court **GRANTS** Defendant's motion.

I.

On April 18, 2014, this Court entered judgment in favor of Plaintiff and against Defendant in the amount of \$97,100.27 plus pre-judgment interest from April 17, 2012 to the date of the judgment and post-judgment interest ("Judgment"). On April 24, 2014, Defendant filed its Notice of Appeal of the Judgment to the United States Court of Appeals for the Sixth Circuit. (ECF No. 33.) On April 24, 2014, as authorized by Rule 62(d) of the Federal Rules of Civil Procedure, Defendant filed with the Court a supersedeas bond in the amount of \$106,000.00. (ECF No. 34.)

II.

A court has discretion to determine whether a supersedeas bond is satisfactory. *See Arban v. West Publishing Corp.*, 345 F.3d 390, 409 (6th Cir. 2003). A supersedeas

bond that covers a judgment, interest, and costs is satisfactory because it affords adequate security to a plaintiff pending appeal. *See Bank One, N.A. v. Echo Acceptance Corp.*, 2008 U.S. Dist. LEXIS 91488, * 5 (S.D. Ohio Nov. 3, 2008). Rule 62(d) of the Federal Rules of Civil Procedure provides that “the stay takes effect when the court approves the bond.” Fed. R. Civ. P. 62(d).

III.

The Judgment awards Plaintiff \$97,100.27 plus pre-judgment interest from April 17, 2012 to the date of the judgment and post-judgment interest. Defendant has filed a supersedeas bond in the amount of \$106,000.00.

For purposes of the supersedeas bond, Defendant properly calculated prejudgment interest according to the interest rate provided in Ohio’s pre-judgment interest statute. *See West Hills Farms, LLC v. Classicstar Farms, Inc.*, 727 F.3d 473,497 (6th Cir. 2013). Thus, the supersedeas bond provides Plaintiff adequate security for pre-judgment interest in the amount of \$7,768.02. In addition, Defendant appropriately calculated post-judgment interest according to the rate for post-judgment interest provided in 28 U.S.C. §1961(a). Consequently, the supersedeas bond provides Plaintiff with security for post-judgment interest for three years in the amount of \$314.90

The Court finds that the supersedeas bond Defendant has filed in the amount of \$106,000.00 satisfactorily secures the principal amount of the Judgment (\$97,100.27); pre-judgment interest from April 17, 2012 to April 18, 2014 (\$7,768.02); post-judgment interest from April 18, 2014 to April 18, 2017 (\$314.90); and the costs Plaintiff incurred in this Court (\$350.00).

IV.

Based on the foregoing, the Court **GRANTS** Defendant's Motion for Approval of Supersedeas Bond and for Stay of Execution on Judgment Pending Appeal. (ECF No. 35.) The execution of the Judgment in this action is hereby **STAYED**.

IT IS SO ORDERED.

4-25-2014
DATE


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE